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**DEPARTMENT OF TRANSPORTATION**

**Billing Code: 4910-62-P**

**Office of the Secretary**

**49 CFR Part 1**

**[Docket No. DOT-OST-2012-0123]**

**RIN 2105-AE28**

**Organization and Delegation of Powers and Duties**

**AGENCY:** Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

**ACTION:** Final Rule.

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**SUMMARY:** The Secretary of Transportation is authorized to delegate functions, powers, and duties as the Secretary deems appropriate. This rule amends the existing delegations of authority by relocating the delegations to the Inspector General currently found in the Department's regulations on the Freedom of Information Act and updates the delegation of authority to the Inspector General to administer the Privacy Act for the Office of the Inspector General's records.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The docket for this rulemaking is available at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, or electronically at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** John Allread, Attorney-Advisor, at [john.allread@dot.gov](mailto:john.allread@dot.gov) or (202) 366-1428, or Claire McKenna, Attorney-Advisor, Office

of the General Counsel, Department of Transportation, Washington, DC, at [claire.mckenna@dot.gov](mailto:claire.mckenna@dot.gov) or (202) 366-0365.

**SUPPLEMENTARY INFORMATION:**

On August 17, 2012, the Office of the Secretary of Transportation (OST) updated its regulations governing the organization of the Department of Transportation and delegations of authority from the Secretary to Departmental officers. See 77 FR 49964. The final rule inadvertently omitted a delegation of authority to the Inspector General to administer the Freedom of Information Act (FOIA), 5 U.S.C. 552, and Privacy Act of 1974, 5 U.S.C. 552a, for the records of the Office of the Inspector General. Although the Inspector General has had authority to administer FOIA under 49 CFR part 7, OST wishes to consolidate all of its delegations in Part 1. This rule also updates the CFR to reflect the OIG's delegated authority to administer the Privacy Act for its records, and places the delegations to the Inspector General to administer the FOIA and Privacy Act for the Office of Inspector General's records within Part 1.

This final rule does not impose substantive requirements. It simply relocates a currently existing FOIA delegation to the Inspector General to 49 CFR part 1 and updates the CFR to represent the current organizational posture of the Department with regard to the Privacy Act. The final rule is ministerial in nature and relates only to Departmental management, procedure, and practice. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). This rule will not have a substantive impact on the public, as it will only clarify and relocate delegations to the Inspector General into the Department's other provisions on delegations found in 49 CFR part 1.

Therefore, the Department finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective less than 30 days after publication in the Federal Register.

#### **REGULATORY ANALYSES AND NOTICES:**

#### **Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures**

The DOT has considered the impact of this rulemaking action under Executive Orders 12866 and 13563 (January 18, 2011, “Improving Regulation and Regulatory Review”), and the DOT’s regulatory policies and procedures (44 FR 11034; February 26, 1979). The DOT has determined that this action does not constitute a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures. This rule has not been reviewed by the Office of Management and Budget. There are no costs associated with this rule.

#### **Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) do not apply. Even so, DOT has evaluated the effects of these changes on small entities and does not believe that this rule would impose any costs on small entities as it makes nonsubstantive corrections. Therefore, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

## **National Environmental Policy Act**

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the agency's administrative delegations to the Office of the Inspector General. The agency does not anticipate any environmental impacts and there are no extraordinary circumstances present in connection with this rulemaking.

## **Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined that it does not have a substantial direct effect on, or sufficient federalism implications for, the

States, nor would it limit the policymaking discretion of the States. Therefore, the preparation of a Federalism Assessment is not necessary.

### **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this action does not contain a collection of information requirement for the purposes of the PRA.

### **Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48, March 22, 1995) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. The UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A “Federal mandate” is a new or additional enforceable duty, imposed on any State, local, or tribal Government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, \$143.1 million or more in any one year (adjusted for inflation), an UMRA analysis is required. This rule would not impose Federal mandates on any State, local, or tribal governments or the private sector.

### **List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies); Organization and functions (Government agencies).

Issued in Washington, DC, on January 31, 2014

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Anthony R. Foxx,

Secretary.

In consideration of the foregoing, DOT amends 49 CFR part 1 as follows:

**PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES**

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Amend § 1.74 by adding new paragraphs (o) and (p) to read as follows:

**§ 1.74 Delegations to Inspector General.**

\* \* \* \* \*

(o) Administer the Freedom of Information Act, 5 U.S.C. 552, and 49 CFR part 7 (Public Availability of Information) in connection with the records of the Office of the Inspector General.

(p) Administer the Privacy Act, 5 U.S.C. 552a, and 49 CFR part 10 (Maintenance of and Access to Records Pertaining to Individuals) in connection with the records of the Office of the Inspector General.

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